

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

LISA DOMSKI,

Plaintiff,

v.

Case Number 23-12023

Honorable David M. Lawson

BLUE CROSS BLUE SHIELD OF MICHIGAN,

Defendant.

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**ORDER DENYING PLAINTIFF’S MOTION TO ADMIT TRIAL EXHIBIT 47**

This matter is before the Court on the plaintiff’s motion to admit trial exhibit 47. She characterizes the exhibit, a recording of an internal Blue Cross HR meeting, as “smoking gun” evidence of discrimination and seeks to use it during her counsel’s opening statement. The plaintiff appears to intend to refer to Exhibit 54 on the Joint Final Pretrial Order, not Exhibit 47. The Court has reviewed the plaintiff’s request and finds that it must be denied. Parties generally may not use proposed exhibits during opening statements unless the parties have reached a prior agreement to permit their use. The plaintiff’s motion does not indicate whether she has conferred with the defendant about such a stipulation, or even about this motion, and her motion could be denied on that basis alone. *See* E.D. Mich. LR 7.1(a)(3). In any event, this proposed exhibit was the subject of an earlier motion, *see* ECF No. 40, which the Court took under advisement so that it could assess the relevance of the exhibit — which was not obvious at the time — in the context of other trial evidence. Nothing new has been presented in the instant motion to assist in that assessment.

The plaintiff may seek to admit the video at trial by the usual method, but she first must seek a conference outside the jury’s presence so the Court can also evaluate the defendant’s argument previously asserted that the exhibit was not disclosed timely is irrelevant, and is unfairly prejudicial.

Accordingly, it is **ORDERED** that the plaintiff's motion to admit trial exhibit 47 (ECF No. 105) is **DENIED**.

s/David M. Lawson  
DAVID M. LAWSON  
United States District Judge

Dated: November 1, 2024